

MINUTES OF THE MAY 10, 2002 DRINKING WATER BOARD MEETING HELD IN
TREMONTON, UTAH

Board Members Present

Dale Pierson, Vice Chairman
Myron Bateman
Anne Erickson, Ed.D.
Jay Franson
Nancy Melich
Dianne Nielson, Ph.D.
Ruth Perry
Chris Webb

Board Members Excused

Boyd Workman, Chairman
Don Hayes, Ph.D.
Charlie Roberts

Staff

Kevin Brown
Michael Georgeson
Bill Birkes
Ken Wilde
Bob Lowe
Patricia Adams
Linda Matulich

Guests

Vernon Fritz, Mayor, Elk Ridge Town
Mike Hughes, Emigration Improvement District
Douglas Nielsen, Sunrise Engineering
Tena Campbell, Carter & Burgess/Wendover City
Mark Bell, Attorney, Wendover City
Gerald Kinghorn, Emigration Improvement District
Bill Bowen, Emigration Canyon Citizen & Trustee
Fred Smolka, Emigration Improvement District
Rick Wheadon, Carollo Engineers
Don Barnett, Barnett Improvement Water Consulting
Margot McCallum, Emigration Canyon Citizen
Russ Donoghue, Rural Water Association of Utah

ITEM 1 – CALL TO ORDER

The Drinking Water Board convened in Tremonton, Utah with Vice Chairman Pierson presiding. The meeting was called to order at 1:05 p.m.

ITEM 2 – ROLL CALL

Vice Chairman Pierson asked Kevin Brown to call roll of the Board members. The roll call showed there were 7 members present at the time.

ITEM 3 – INTRODUCTIONS

Vice Chairman Pierson welcomed everyone and asked the guests to introduce themselves.

Vice Chairman Pierson thanked Tremonton City and Bear River Water Conservancy District for the informative tours held this morning for the Board members.

Jay Franson joined the meeting.

ITEM 4 – APPROVAL OF MINUTES

Vice Chairman Pierson stated a motion to approve the April 12, 2002 minutes would be in order.

Dianne Nielson moved the Board approve the April 12, 2002 minutes.

Jay Franson seconded.

**CARRIED
(Unanimous)**

ITEM 5 – STATE REVOLVING LOAN FUND (SRF)/CONSERVATION COMMITTEE

a) SRF/Conservation Report

Vice Chairman Pierson turned this agenda item over to Anne Erickson to Chair.

1) Status Report

Mike Georgeson reported the Board has almost \$338,000 in the Secondary Account, a little over \$2,000,000 in the Security Account, and \$265,000 in the Hardship Grants Account for a total of approximately \$2,655,000 in the State SRF Account.

Mike mentioned the Board has available \$6.7 million in the Federal SRF Account.

Mike mentioned staff has set a date of May 14, 2002 to close the Price City loan. Staff is working toward closing a loan for Copperton under the State program. Staff is working toward closing loans for Emigration Canyon Improvement District, Parowan City and Duchesne City under the Federal program. Mike included a chart illustrating the plan review history in the status report section of the packet for the Board's information.

2) State SRF Applications

a) Elk Ridge

Bill Birkes mentioned one of Elk Ridge's highest producing wells has recently diminished drastically in production. Elk Ridge is proposing to build a new well. The estimated cost is \$300,000. The town indicated they have \$50,000 they could contribute, but they would like to contribute only \$25,000 toward the project. Elk Ridge would like to keep some money for any emergency. Elk Ridge is asking the Board for the remaining \$275,000.

Mayor Vernon Fritz, of Elk Ridge, addressed the Board.

Discussion followed.

Chris Webb moved the Board authorize Elk Ridge Town a loan of \$275,000 for a term of 20 years at an interest rate of 4.05% with the option to reduce that to 0.25% for each 5 years for a shorter repayment term option.

Dale Pierson seconded.

**CARRIED
(Unanimous)**

3) Federal SRF Applications

a) Wendover City

Ken Wilde reported the Board has loaned Wendover City a little over \$3 million for their project. BLM has required some additional electrical work for the project. It looks like Wendover City will need \$240,000 in addition to the funds they have available from the Board and Rural Development. Wendover City would like the Board to authorize a loan of \$240,000 to cover the shortfall. Rural Development thinks it can come up with half of the \$240,000 in the fall.

Ken mentioned the SRF/Conservation Committee is recommending a loan to Wendover City for \$240,000 at 0% for one year as an interim financing option. After Wendover City finds out how much they will receive from Rural Development, they will be able to bond for the remaining money from the Drinking Water Board and close out the short term financing.

Mark Bell, attorney for Wendover City, and Tena Campbell, Carter & Burgess, addressed the Board.

Discussion followed.

Myron Bateman moved the Board authorize a loan of up to \$240,000 at 0% for up to one year

Chris Webb seconded.

**CARRIED
(Unanimous)**

4) Deauthorization

a) Manila

Mike Georgeson reported that in November 1998 the Drinking Water Board authorized a Hardship Grant to Manila in the amount of \$5,000. Manila has not asked for the money and has proceeded with the project. Staff suggested to the SRF/Conservation Committee that this authorization be rescinded so the money could be made available to other communities.

Discussion followed.

Dale Pierson moved the Board deauthorize the planning grant of \$5,000 to Manila.

Ruth Perry seconded.

**CARRIED
(Unanimous)**

b) Bear River Water Conservancy District

Mike Georgeson reported the Bear River Water Conservancy District was authorized a loan of \$150,000 in January 2001 to complete work on a standby well. Bear River found ways to pay for the standby well without using the \$150,000 loan. Bear River had some money left over from a loan they had received previously, and used it for the well.

Myron Bateman moved the Board deauthorize the \$150,000 loan to the Bear River Water Conservancy District.

Ruth Perry seconded.

**CARRIED
(Unanimous)**

c) Atkinson Special Service District

Mike Georgeson reported the Board authorized a \$357,000 loan and a \$100,000 Hardship Grant to the Atkinson Special Service District in June 1999. Since that time, the Atkinson Special Service District became part of the Mountain Regional Special Service District. Staff hadn't heard from the District, so staff suggested deauthorizing the loan to the SRF/Conservation Committee. Upon notifying the Atkinson Special Service District/Mountain Regional Special Service District of the recommendation to the SRF/Conservation Committee, staff was informed the District was desirous of moving forward with the project and had instructed their bond attorney to begin drafting documents to close the loan. At this point in time, staff is requesting the Board defer action on this recommendation pending closing of the loan to the Mountain Regional Special Service District.

Chris Webb moved the Board defer action pending the loan closing to the Atkinson Special Service District, and to change their name of the Atkinson Special Service District to reflect its new name of Mountain Regional Special Service District.

Discussion on motion.

The Atkinson Special Service District/Mountain Regional Special Service District representative addressed the Board on the name change of their District.

Dale Pierson seconded.

**CARRIED
(Unanimous)**

NEW - 5) Emigration Improvement District Construction/Environmental Concerns

Anne Erickson mentioned this is a new agenda item.

Ken Wilde reported the SRF/Conservation Committee's recommendation was revised by one of the Committee members from the packet item they received. There are some representatives and residents from Emigration Improvement District that would like to address the Board on their concerns. Emigration Improvement District did apply for permission to drill a well and submitted plans and specifications to staff. The Drinking Water Board required Emigration Improvement District to show it had an adequate water supply before the Board would close its loan. Staff talked with Don Barnett, hydrogeologist for Emigration Improvement District, on the development of the well to make sure there would not be any erosion or other environmental damage. Staff received a letter from the Division of Wildlife Resources this week stating that Emigration Improvement District has done everything for the environmental assessment that they have required.

William Bowen, Mike Hughes, Rick Wheadon, and Gerald Kinghorn addressed the Board. Fred Smolka was available for comments and to answer any questions. The representatives spoke about what they were doing on the project, the stream crossing project/trout issue, the environmental assessment document, and other issues related to the project. They explained what they are using their money for on the project.

Discussion followed.

Dianne Nielson commented that EPA would not allow staff to spend federal funding until staff had the correct completed NEPA review. This limits them to only spend their own money on their project.

Ken Wilde mentioned when staff talked to EPA, EPA said the Drinking Water Board could eliminate part of the project. Particularly the stream crossing and document any environmental assessment for: 1) did they do any environmental damage while they were doing the stream crossing project, 2) they would have to spend their money for the cost of the stream crossing, 3) staff has to document any justification for why Emigration Improvement District did it without an environmental assessment, and 4) staff to document what the Drinking Water Board did to take action to disassociate the Board from what could become a violation. The well is not an issue. It is up to the Drinking Water Board to pull the stream crossing out of the project. The Drinking Water Board has the latitude to impose whatever corrective action they feel necessary to correct

the process. The Board may require Emigration Improvement District to pay for what they have done out of their own money. It does not require the Board to reduce the size of the loan. The Board, if they don't take any action, would be in violation of NEPA. It appears the Board could do this, and say the Board is not necessarily going to reduce the loan. The Board would need to tell Emigration Improvement District they couldn't proceed with any more of the project until they have a plan review and meet the NEPA review process. If the Board takes the action of reducing the size of the loan, but let Emigration Improvement District spend any money on it staff will have to document this in the environmental record. It would be a good idea to run this past EPA as part of the environmental assessment to make sure they are ok with it that and that this is the Drinking Water Board's action and that the Board is not in violation. Ken needs to amend the environmental assessment. Ken explained the NEPA process.

Discussion followed. Also, concerns on the amount of money that has been spent by Emigration Canyon to date and how much they are receiving from the Board was discussed.

Mike Georgeson mentioned when applications come in, they are based on cost estimates. Staff doesn't close the loan until there is an actual bid price. If the cost of the project, as a result of the bid, was lower than what was authorized by the Board, staff would close the loan for the smaller amount. Plans for the project have not been approved yet, which is a separate process from the NEPA process.

Mike Georgeson commented the Board would need to make a motion today to take a position on the allocation of the project costs to the project sponsor and to the Board and Division for the SRF money, to exclude any and all costs associated with the stream crossing.

Jay Franson mentioned from a technical point-of-view the process is still on-going, the public still has an opportunity to get involved in the process and may come back to the Board once the process is done. That is what the process is for and the Board shouldn't jump in the middle of that process until it is completed.

Chris Webb moved the Board modify the authorization to Emigration Improvement District's loan to restrict any money spent on the stream crossing from being included as matching money to the loan, that all of the physical construction other than engineering design be ceased, that the loan not be closed or any monies be advanced to Emigration Improvement District until the plan review is completed and approved, the environmental assessment is completed and approved by the State and EPA, and staff and Emigration Improvement District will report back to the Board to deauthorize a portion of the loan when actual costs are determined.

Discussion on motion.

Dianne Nielson stated that it was the Board's understanding, based on the discussion, that the appropriate approval at the State Division of Water Rights and Federal Corps of Engineers levels were given for the stream crossing. Emigration Improvement District did comply with the construction window provided to protect endangered species.

Mike Georgeson mentioned Emigration Improvement District did have an approved stream alteration permit. They did not have any plan approval from staff.

Jay Franson seconded.

**CARRIED
(Unanimous)**

Discussion followed.

**ITEM 6 – R309-600 DRINKING WATER SOURCE PROTECTION FOR GROUND WATER
SOURCES FIVE-YEAR REVIEW**

Bob Lowe reported the R309-600 Drinking Water Source Protection Rule is up for the five-year review. The Board took this under consideration at the last Board meeting. Staff went to the Division of Administrative Rules and explained what had happened. The Division of Administrative Rules gave staff an extension to complete the process until August 8, 2002 in following the right procedures. Staff is bringing the rule before the Board today for review. Staff is recommending that the Board authorize staff to file the five-year review application with the Division of Administrative Rules to prevent the rule from sun-setting.

Discussion followed.

Chris Webb moved the Board authorize staff to file the five-year review form for R309-600, the Drinking Water Source Protection for Ground-Water Sources Rule, with the Division of Administrative Rules. This will allow the rule to continue in force and prevent the rule from “sun-setting”.

Myron Bateman seconded.

**CARRIED
(Unanimous)**

ITEM 7 – CHAIRMAN’S REPORT

- a) Elections for New Chair and Vice Chair to be held at the June 14, 2002 Board meeting in Vernal, Utah

Vice Chairman Pierson reported the elections for the Chair and Vice Chair for the coming year will be held at the June 14, 2002 Board meeting. Nominations for Chair and Vice Chair can be submitted to Kevin by e-mail prior to June 6, 2002. Kevin will then contact the nominees to determine if they are willing to serve as Chair and Vice Chair.

Kevin mentioned he would send an e-mail on the process for the Board members that aren’t present today.

Anne Erickson stepped out.

Dale Pierson mentioned he spoke to Boyd a couple of days also. Boyd is continuing on improving. He is not using the wheelchair as much and is starting to use crutches. He has not been released to go back to work yet. He is planning on being at the June 14, 2002 meeting in Vernal. Boyd sends his thanks and appreciation to the Board for the cards and gift basket.

Dale Pierson attended the Division's annual planning retreat in April. From the retreat, it looks like the Board may need to address several items in some workshop meetings. There are five items that need to be addressed and asked staff to prepare workshop meetings in conjunction with the Board meetings for the Board to address: 1) Conservation. (The Board needs to have a good feel for the drinking water systems throughout the state on being proactive on water conservation), 2) Secondary Systems. (There are some cross connection issues, funding issues, and various issues involved with secondary water systems in relation to drinking water systems), 3) Master Plans. (Requiring master plans as part of our criteria for submitting for funding. Right now it is unclear how much we want, how much we need and what criteria should there be for master planning), 4) Security Issues. (This will continue to be an issue for quite some time. The Board needs to look at what they need to do to facilitate systems to providing security for themselves), and 5) The State SRF Program versus the Federal SRF Program. (The Federal SRF program is currently set up so private mutual non-profit water systems can receive funding. The Division of Water Resources also can fund private mutual non-profit water systems with their money. We probably ought to look at the State SRF Program and determine if the State SRF Program should also match the way that the other water development offices fund their programs.)

ITEM 8 – DIRECTOR'S REPORT

a) Operator Certification Small System Reimbursement Process

Kevin Brown reported the Operator Certification Small System reimbursement process, under the Safe Drinking Water Act of 1996, authorized EPA to provide the states out of the Federal SRF Program money to make sure the operator certification requirements include the operators of small systems get a chance to go to training and as such they are eligible to receive reimbursement for travel and the costs associated to the training. Utah is one of the first states in the country to receive the grant money of about \$800,000 for a four-year program. Staff has contracted with the Rural Water Association to provide this service to the small systems and keep track of the operators that are going to the training and providing the reimbursement to the operators. This program has only been in place for about 1-½ months now.

b) Drought Update

Kevin Brown mentioned he just came back from some EPA Region VIII meetings in Montana. Unfortunately, we are not the only state in the region that is facing drought issues. The southeastern part of Utah is mostly impacted at this point. San Juan County has already filed for some emergency drought help. The residents of Utah seem to be more aware of the drought concerns this year.

Anne returned.

Discussion followed.

- c) June 3-5, 2002 Association of State Drinking Water Administrators (ASDWA)
Environmental Protection Agency Security Conference – Salt Lake City

Kevin Brown commented there will be a National Security Conference held on June 3-5, 2002 in Salt Lake City sponsored by ASDWA and EPA. The Board members are welcome to attend the meetings. There is some information in the packet on the meetings. If you'd like to attend the meetings, let Linda know and she'll get you registered for the conference. The conference will be primarily for State Drinking Water Regulatory and State Homeland Security people.

- d) September 30 – October 3, 2002 Annual ASDWA Conference – Salt Lake City

Kevin Brown reported ASDWA's annual conference will be held in Salt Lake City. If the Board is interested in attending the annual conference let Linda know and she will get you registered.

ITEM 9 – NEWS ARTICLES

The news articles are in the packet.

ITEM 10 – LETTERS

The letters are in the packet.

ITEM 11 – UPDATE

The update is in the packet.

ITEM 12 – NEXT BOARD MEETING

The next Board meeting will be held on June 14, 2002 in Vernal, Utah. Chairman Workman is planning on being at the June meeting.

ITEM 13 – OTHER

No other business.

ITEM 24 – ADJOURN

Vice Chairman Pierson stated a motion to adjourn the Board meeting was in order.

Chris Webb moved to adjourn the Board meeting at 3:15 p.m.

Nancy Melich seconded.

Linda Matulich
Recording Secretary